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5 UNITED STATES DISTRICT COURT
6 DISTRICT OF NEVADA

7 JOHN L. WILLIAMS-EL,

8 Plaintiff,

9 v.

10 JAMES GREG COX et al.,

11 Defendants.

3:15-cv-00422-RCJ-WGC

ORDER

12
13 **I. DISCUSSION**

14 On February 12, 2016, this Court dismissed Plaintiff's complaint, with prejudice and
15 without leave to amend, for failure to state a claim. (ECF No. 3 at 5). Plaintiff appealed. (ECF
16 No. 5).

17 On February 23, 2017, the U.S. Court of Appeals for the Ninth Circuit vacated this
18 Court's order and remanded. (ECF No. 11 at 2). The Ninth Circuit held that dismissal without
19 leave to amend was premature because it was not absolutely clear that the complaint's
20 deficiencies could not be cured by amendment. (*Id.*) The Ninth Circuit directed this Court to
21 give Plaintiff an opportunity to amend his complaint on remand. (*Id.*)

22 Plaintiff is granted leave to file an amended complaint to cure the deficiencies of the
23 complaint. If Plaintiff chooses to file an amended complaint he is advised that an amended
24 complaint supersedes (replaces) the original complaint and, thus, the amended complaint
25 must be complete in itself. See *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896
26 F.2d 1542, 1546 (9th Cir. 1989) (holding that "[t]he fact that a party was named in the original
27 complaint is irrelevant; an amended pleading supersedes the original"); see also *Lacey v.*
28 *Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012) (holding that for claims dismissed with
prejudice, a plaintiff is not required to reallege such claims in a subsequent amended

1 complaint to preserve them for appeal). Plaintiff's amended complaint must contain all claims,
2 defendants, and factual allegations that Plaintiff wishes to pursue in this lawsuit. Moreover,
3 Plaintiff must file the amended complaint on this Court's approved prisoner civil rights form and
4 it must be entitled "First Amended Complaint."

5 The Court notes that, if Plaintiff chooses to file an amended complaint curing the
6 deficiencies, Plaintiff shall file the amended complaint within 30 days from the date of entry
7 of this order. If Plaintiff chooses not to file an amended complaint, the Court will dismiss this
8 action with prejudice for failure to state a claim.

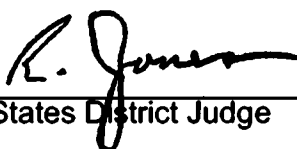
9 **II. CONCLUSION**

10 For the foregoing reasons, IT IS ORDERED that, if Plaintiff chooses to file an amended
11 complaint curing the deficiencies of his complaint, Plaintiff shall file the amended complaint
12 within 30 days from the date of entry of this order.

13 IT IS FURTHER ORDERED that the Clerk of the Court shall send to Plaintiff the
14 approved form for filing a § 1983 complaint, instructions for the same, a copy of his original
15 complaint (ECF No. 1-1, 1-2), and a copy of the screening order (ECF No. 3). If Plaintiff
16 chooses to file an amended complaint, he must use the approved form and he shall write the
17 words "First Amended" above the words "Civil Rights Complaint" in the caption.

18 IT IS FURTHER ORDERED that, if Plaintiff fails to file an amended complaint, the Court
19 will dismiss this action, with prejudice, as amendment would be futile and for failure to state
20 a claim.

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22 DATED: This 12 day of ^{July}~~June~~ 2017.

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25 United States District Judge
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